

<div style="text-align: center;"> S U S A N C O M B S </div>	TEXAS COMPTROLLER <i>of</i> PUBLIC ACCOUNTS INTEROFFICE MEMO
	

January 18, 2008

AP 115

To: All Audit Staff

From: David Rock, Audit HQ

Subject: Unclaimed Property

This memo is a synopsis of current and revised unclaimed property audit policies. All administrative personnel, auditors, supervisors and managers should familiarize themselves with this subject matter.

1) Unclaimed Property Audit Policies: Below is a partial list of unclaimed property audit policies that have been implemented over the last several years.

- a) **Unclaimed Property Reporting History Queries-Tax/Fee Audits:** All businesses are responsible for reporting unclaimed property. Audit procedures for tax and fee audits include reviewing the taxpayer's/holder's unclaimed property reporting history. If the history appears inadequate, incomplete or inconsistent, then consideration should be given to generating an unclaimed property audit. Tax and fee audit plans should include a short comment summarizing the results of the UP history review. (09/01/07)

- b) **Penalty and Interest Worksheet, Exam 1:** The penalty and interest calculation worksheet has been updated and revised. Use the new P&I worksheet for all unclaimed property audits regardless of the audit's ending date including those now in progress. The "long" version includes periods 1987 through 2011 and the "short" version includes periods 1997 through 2011. Both versions are on the server at: *O:\2101\UnclaimedProperty\P&I worksheets*. These spreadsheets work only if Excel's "Analysis ToolPak Add-In" has been activated (see your PC Coordinator). Please do not modify the worksheets without approval. Contact Audit Headquarters for an alternative version if a full or partial payment is made or if there is a full or partial interest waiver. (09/01/07)

- c) **Social Numbers & File Encryption:** Electronic files containing social security numbers should only reside on the auditor's laptop encrypted with PC Guardian. Files emailed outside the agency should be encrypted using WinZip's 256-bit encryption method. When possible, hardcopy documents with social security numbers provided to the auditor should be converted to an electronic format (scanned and converted to PDF/tiff). The original hardcopy should then be returned or destroyed unless the original will be part of the audit package. (09/01/07)

- d) **FEI number on the tax/fee system:** Run a XIMAST query on all unclaimed property audits to verify that the holder's true FEI number is listed and not a phantom number that is often generated. This number should match the FEI number used in the audit as well as the number used in the unclaimed property database if the holder has previously reported unclaimed property. Use XIMAST to verify and, if necessary, request one of your file maintenance personnel to use XUMAST to update or add the correct number. (09/01/07)
- e) **Tax Responsibility Codes:** The tax/fee system must reflect a tax responsibility code of "53" for holders/taxpayers with an unclaimed property audit. If the code is not present one of your file maintenance personnel should add it via XASTAT. Due to a system constraint, the "Responsibility Begin Date" in the XASTAT menu cannot be prior to 09/01/1997. If the true first "Responsibility Begin Date" is prior to 09/01/1997 then the correct date must be added to the XASTAT comment window/screen. The comment should read ***"A tax responsibility of 53 was added in conjunction with the generation of an unclaimed property field audit. This holder's true first responsibility date for tax type 53 is XX/XX/XXXX"***. The correct "responsibility begin date" is the holder's incorporation date, certificate of authority date or partnership formation date on file with the Secretary of State's or alternatively the earliest tax responsibility date of any other tax or fee. (01/23/06)
- f) **AWM audit payment comment:** All property due unclaimed property audits must have an AWM comment indicating the date(s) the auditor requested an audit payment, the payment date(s) and where payment was made (field office, audit processing, unclaimed property division, etc.). These comments should also be included in the audit plan's listing of events. (09/01/07)
- g) **AWM tax adjustment amount:** The "Final Tax Adjustment" amount includes only property (no penalty or interest); in most cases it should match the overdue property column on Exam 1. This is consistent with other audit types. (09/01/07)
- h) **AWM audit reason codes:** The primary and secondary audit reason codes must be completed; only "Detailed" and "Est or Smpld Due To Insuff Rec" should be used.
- i) **AWM audit periods:** The "Begin" date on the Work Item Detail window will always be November 1 of the applicable year and should match the beginning audit period date in the audit plan. The "End" date will always be November 30 of the applicable year. The 30th is used instead of the 1st due to a system constraint. The "End" date must be the same month and year (but not the same day) as ending audit period date in the audit plan. See 2)i) below. The "End" date is generally based on the November preceding the audit start date. The audit cannot include periods not yet due.
- j) **Overdue Property in conjunction with a merger:** When auditing a holder that has acquired property through a merger or acquisition of another entity, the due date of overdue property originally held by the merged or acquired entity is November 1st of the year following the merger or acquisition year. This allows a minimum eleven months and maximum of twenty three months for the holder to report this property. (example: merge date 12/01/05-Due date 11/1/06; merge date 01-01-04-due date 11/1/05)

k) Penalty and interest assessment on overdue property reported during the audit period:

The May 13, 2004 guidelines on assessing penalty and interest on overdue property reported during the audit period have been changed. The Unclaimed Property Division is now responsible for assessing all “non-audit” penalty and interest. The Unclaimed Property Division identifies overdue property as the property reports are processed and will assess any applicable penalty and interest. Except at the direction of audit management, penalty and interest on previously reported property will not be considered in an audit. (09/01/07)

l) Non-refunded timely payment discounts: Unclaimed property may exist when a holder sells an item on credit and bills/invoices the purchaser (owner) with an invoice or other instrument clearly stating the full invoiced price may be discounted by a specific amount or percentage if the payment is made within a specified period. A common example is “2-10 net 30” meaning a 2% discount is allowed if the invoice is paid within ten days, otherwise the full amount is due within 30 days. If the purchaser (owner) pays the seller the non-discounted amount within the discount period, the discount amount may be considered unclaimed property. The existence of other contractual agreements between the holder and purchaser (owner) may take precedent. (10/20/05)**m) Multiple entities:** Unlike tax or fee audits, unclaimed property audit may include multiple separate legal entities. This includes parent and subsidiaries for corporations or partnerships linked by a common general partner. Several factors need to be considered including, but not limited to: consolidated financial statements and tax returns, consolidated unclaimed property reporting, prior VDAs covering multiple entities, centralized location for record storage or centralized accounting and financial reporting functions. This topic should be discussed with Headquarters before a final decision is made. If multiple entities are included in an unclaimed property audit, the audit must have sufficient detail to segregate scheduled property into separate audits if it should become necessary.**n) Estimated Audits:** Unclaimed property audits cannot include a sample (samples imply complete records, estimates imply incomplete or missing records). If complete records exist for the audit period the audit must be detailed. An unclaimed property audit may include an estimate for periods with incomplete or missing records. Incomplete or missing records include primary documents as well as secondary records required to research unreported property initially scheduled in the audit. Once an auditor establishes the holder’s records are incomplete or missing the auditor should request the holder provide a written, signed letter listing applicable reporting periods, a description of the specific incomplete or missing records and the property types associated with these records. This must be discussed in the audit plan and the holder’s letter becomes an exhibit that is included in the audit package. If the holder refuses to provide written acknowledgement of missing or incomplete records, the audit plan must reflect the period, types of records and property type associated with the missing or incomplete missing records and the dates and attempts made by the auditor to secure a letter. (04/02/04)**o) Music/Publishing royalties:** This type of property should use property code MS04.

- p) Payroll Service:** Many businesses use a payroll service to handle their payroll distribution. The contract between a business and a payroll service is the controlling document determining unclaimed property liability. If the contract states the payroll service distributes payroll checks and the outstanding checks do not revert back to the original business, then unclaimed property liability rests with the payroll service. If the payroll services returns the funds from outstanding payroll checks to the business, then the business is the liable party. In all cases, the property value is based on the original payroll check/disbursement amount; no service or processing fee deductions are allowed. (03/04/05)
- q) Layaways:** The existence of unclaimed property derived from a “layaway” is determined by the layaway contract or other owner signed agreement. If the contract, agreement or other owner signed acknowledgment fully discloses the terms and disposition of any partially or fully paid merchandise for which the apparent owner has not taken possession or the disposition of any full or partial layaway payments held or retained by the holder, then those terms determine whether the merchandise or payments ever become unclaimed property. The state is the custodian of unclaimed property, the state merely steps into the shoes of the missing owner and has no greater right to the property than does the owner based on the original contractual agreement. This is a general concept that applies in other situations as well.
- r) Foreign Corporations:** The State of Texas has no jurisdiction over unclaimed property held by a corporation located outside of the United States of America or its territories provided these corporations have no nexus within the United States of America. These foreign holders may/should voluntarily report unclaimed property with Texas addresses, but the Comptroller has no enforcement power. (02/25/05)
- s) Audit Materiality:** Unclaimed property audits are distinctly different from tax or fee audits. The State never takes ownership of unclaimed property but rather becomes the custodian until the rightful owner is found. Since the property does not belong to the State we are obligated, as caretakers, to be more diligent in returning property to the rightful owner. Property in an unclaimed property audit that can be identified or linked to an specific owner, owner’s address (complete or state only) or a social security number, must be detailed and included in the audit regardless of the amount. When estimates are used the minimum materiality level for estimated property is \$500 for wages and royalties and \$1,000 for other property types. (03/31/05)
- t) Amended Audits:** Administrative remedies including Independent Audit Review Conferences (IARC) and redetermination hearings are not available. Auditors should examine all available records and attempt to reconcile property before scheduling; likewise, the holder should be provided ample time and opportunity to research and reconcile all scheduled property before the audit is finalized and submitted to the RPC. An “agreed to” audit significantly reduces the chance of later amendments. Amended unclaimed property audits should be the exception and not the rule.
- i) Prior to billing:** If the holder provides additional verifiable information to the auditor before the audit is billed, then contact Audit Headquarters to have the audit return to the auditor for corrections without the need for an amended audit.

- ii) **Within 60 days of billing:** If the holder provides additional verifiable information to the auditor within sixty days from the billing date, then contact Audit Headquarters to discuss the circumstances and feasibility of generating an amended audit. Neither the audit office nor auditor should contact the Unclaimed Property Division to alter the original audit property report submitted with the original audit. This amendment process is not redetermination nor is this considered to be any form of administrative or legal remedy.
 - (1) Once the amendment is approved, the auditor should request the original unclaimed property audit files (disk/CD) from the RPC. This request is made by going online to the Audit Division web page, clicking on the "Processing Center" link on the list of options located on the left side of the web page, and then clicking on the "Diskette Request" option. The direct link is:
http://192.168.230.170/aud/Audit/Processing_Center/files/email.htm . Complete all the data fields and then click on the send button. This information may also be found at O:\2I45 \ RPC Helpful Hints.
- iii) **Over 60 days from billing:** If the Holder comes forwarded more than sixty days from the original audit's billing date, then Audit Headquarters should be contacted to review the facts and determine a course of action.
- u) **TWC Data:** Texas Workforce Commission wage data is frequently used as a basis in estimating unclaimed property for periods with missing or incomplete records. This information can also be used to verify the correlation between Texas wages and reported MS01 property. A MS Access database file named *TWC-Data-(due941-071)-Final.mdb* located at O:\2I01\UnclaimedProperty\UPMainFrame+TWC was created to allow easy access to the TWC data. The database should be copied to and run from your laptop computers; do not open or run the database from the server. Auditors must contact Headquarters to verify the accuracy of TWC data if this data is used in an estimate. Certain threshold selection criteria had to be used to keep the database to a reasonable size and it is possible a quarterly report may have been excluded. Please note this is a large database and searches may take a minute or two. (09/01/07)
- v) **Audit Approval:** Unclaimed property audits require prior approval from Headquarters before being generated. Each office should email their audit requests on the previously provided template to Audit Headquarters. This assures there are no conflicts with current or prior contract audits and documents a basic level of holder research.

2) Unclaimed property audit plans: All audit plans must include the following information.

- a) **Audited entities:** The audit plan must list by name and Employer Identification Number all parent, subsidiary and operating entities that are covered in the audit; the absence of scheduled property is irrelevant. Unclaimed property audits, unlike a tax audit, may encompass more than one legal entity; however, the audit must have sufficient detail to segregate scheduled property into separate audits if it should become necessary.
- b) **Internal controls:** The audit plan must document the holder's internal controls, discuss the methods used to test these controls and summarize their effectiveness as related to unclaimed property reporting.
- c) **Accounts of interest:** The audit plan should list the general ledger accounts of interest examined and the results of the auditor's examination. Comments should include explanations of any unclaimed property booked to suspense or liability accounts and how the write-offs from these accounts were documented and reported (or not reported if applicable). This is especially important with cash accounts such as payroll, royalties, claims payments, deposits, and credit balances.
- d) **Bank accounts:** The audit plan must list all bank accounts (bank name and account number) used by the holder and the general ledger account to which the bank account is related. Bank accounts tied to accounts of interest (payroll etc) should be discussed even if no property was scheduled. In large corporations with voluminous bank accounts, only the pertinent bank accounts need to be listed and commented on.
- e) **Record availability and completeness:** The audit plan should include in the "listing of events" all dates records were requested and the specific types of records requested. The audit plan should include comments describing the condition and completeness of the records for the period under audit and the impact this has on the holder's ability to research specific unclaimed property items scheduled in the audit. Additional discussion is required if an audit estimate is used. See 1)m) above
- f) **Holder reporting history:** The holder's complete unclaimed property reporting history by report year and property type must be included in the audit plan. For example:

<u>Report Yr</u>	<u>CK13</u>	<u>MS01</u>	<u>Grand Total</u>
2004	15,472.76	376.45	15,849.21
2005	173,955.42	-0-	173,955.42
2006	<u>135,053.67</u>	<u>4,839.05</u>	<u>139,892.72</u>
Total	324,481.85	5,215.50	329,697.35

Include a separate history for each entity included in the audit. The history data is available by 1) running inquiries from the UP mainframe; 2) using the MS Access UP holder reporting database located at O:\2I01\UnclaimedProperty\UPMainFrame+TWC or by requesting an Excel worksheet with a detailed property list from Headquarters. If the detailed list from HQ is requested the auditor must provide the FEI number, report year(s), and division number(s) when making the request. Voluminous histories may be attached as an exhibit (09/20/05)

- g) **"Commonly Reported Types of Unclaimed Property Listed by Industry":** This page is for informational purposes; it should not be included in the audit plan.
- h) **Listing of events:** The audit plan's "listing of events" reflects the auditor activities for a given date. The primary discussion of testing and audit results should be in the body of the audit plan.
- i) **Audit Period:** The beginning and ending dates of the audit period reflected on the audit plan will always be November 1 of the applicable year (i.e. November 1, 1997 to November 1, 2006). The ending date will always be November 1 of the year prior to the audit start date. The audit period should include the property reportable on the last ten unclaimed property reports; any deviation should be discussed with Audit Headquarters.
- j) **BART desktop revenue project:** The audit plan should include a comment stating whether the holder was part of the BART Desktop Revenue Project and if so, the results of that assignment. (09/01/07)

Please contact the Area Manager of Technical Support, the Technical Support supervisor, or the subject matter expert in Audit Headquarters if you have any questions.